

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

BILLY BRANTLEY, et al.	:	Case No. C-1-01-378
	:	
Plaintiffs,	:	Judge Michael H. Watson
	:	
vs.	:	
	:	SUPPLEMENTAL
CINERGY CORP.	:	AFFIDAVIT OF KEN
	:	<u>TOEBBE</u>
Defendant.	:	

STATE OF OHIO)
)ss.
COUNTY OF HAMILTON)

Comes now affiant, Ken Toebe, after being duly cautioned and sworn, states as follows:

1. That I am presently employed by The Cincinnati Gas & Electric Company ("CG&E") as Manager of T&D Projects from 1998 to the present and my job responsibilities include acting as the Hiring Manager responsible for coordinating and scheduling the hiring process for the Lineperson Apprentice Program.
2. That as part of my job responsibilities, I am familiar with employment and personnel records of employees in the Electric T&D C&M department of CG&E.

3. That John Huwell is a retired employee who was employed by CG&E in the Electric T&D C&M department.

4. That Exhibit "A" is a true and accurate copy of a Certification of Oral Warning issued to Richard Cutsinger by John Huwell on or about November 15, 1993.

5. That Exhibit "A" is a true and accurate copy of a business record of CG&E which records information which was made at or near the time by or from a person with knowledge in the course of CG&E's regularly conducted business activity and is a employment or personnel record of Richard Cutsinger, employed by CG&E in the Electric T&D C&M department on or about November 2003.

6. That I have firsthand knowledge of the above.

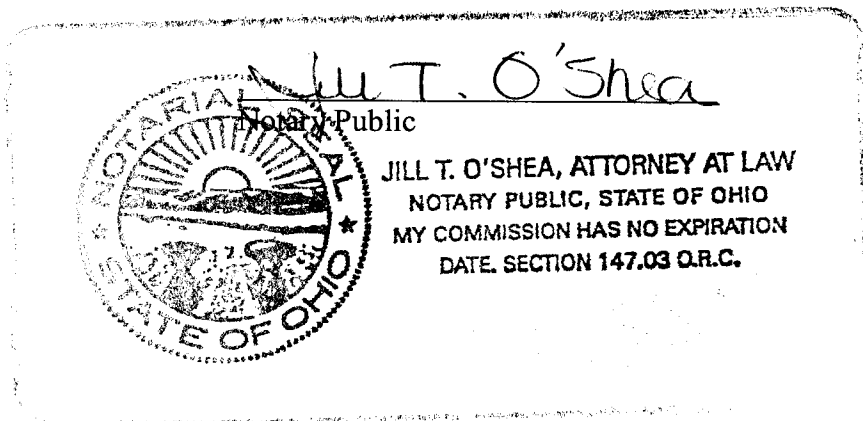
FURTHER AFFIANT SAYETH NAUGHT.

10-26-04
Dated

Ken Toebe
Ken Toebe

NOTARY AT LAW

Sworn to and subscribed in my presence this 27th day of October, 2004.



Respectfully submitted,

/s/ Jill T. O'Shea

Jill T. O'Shea (0034692)
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Attorneys for Defendant
Cinergy Corp.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading was forwarded via ordinary mail
this 28th day of October, 2004 to:

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/s/ Jill T. O'Shea
Jill T. O'Shea

CERTIFICATION OF AN ORAL WARNING

This management file memo is to record that on the date stated below, the said employee was counseled concerning the matter(s) listed in this memo.

It was explained to said employee that this oral warning has been issued in lieu of other disciplinary action, and unless immediate improvement is made in the area(s) mentioned, further disciplinary action will be necessary.

Area(s) necessary for improvement:

During a meeting on November 3, 1993 in the presence of Messer J. Murphy, you were counseled about the threat you made toward another employee that was working with you. (That you were going to punch him in his black face).

This type of threat and comments are not acceptable in our work place. You were cautioned about this type of behavior and also made aware that future problems of this type would result in more serious disciplinary action, including possible dismissal from the company.

EMPLOYEE'S NAME

Richard C. C. C.

SUPERVISOR

John H. H.

DATE

11-15-93

SUPERVISOR
